

# Paper No. 25

MAY 7 2004

# DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A review of the file record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of

Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

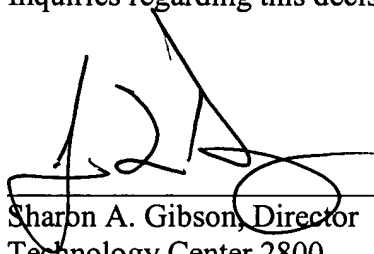
The petition, including the attachments, is sufficient to establish a showing of non-receipt of the Notice of Allowance of January 28, 2003.

The file record does not contain the Notice of Allowance mailed January 28, 2003, as pointed out in the petition. Accordingly, it would be reasonable to conclude that the Notice of Allowance may not have been mailed but only the Notice of Allowability was mailed on January 28, 2003.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due. The shortened statutory period for response will be reset to run from the date the Notices are re-mailed. Extensions of time are not available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606.

  
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